

Part 2

State Tax Commission

59-1-201 Composition of commission -- Terms -- Removal from office -- Appointment.

- (1) The commission shall be composed of four members appointed by the governor with the consent of the Senate.
- (2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.
- (3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.
- (4) A commissioner shall hold office until a successor is appointed and qualified.
- (5)
 - (a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.
 - (b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:
 - (i) shall serve for the remainder of the unexpired term; and
 - (ii) may be reappointed as the governor determines.
- (6)
 - (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:
 - (i) the Utah State Bar;
 - (ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;
 - (iii) one or more organizations that represent persons who assess or appraise property in the state; and
 - (iv) one or more national organizations that:
 - (A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;
 - (B) require experience, education, and testing to obtain the certification; and
 - (C) require additional education to maintain the certification.
 - (b) In appointing a commissioner, the governor shall consider:
 - (i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and
 - (ii) any other potential appointee of the governor's own choosing.

Amended by Chapter 370, 2014 General Session

59-1-202 Qualifications of members of commission.

- (1) Each member of the commission:
 - (a) shall have significant tax experience that is relevant to holding office as a commissioner;
 - (b) shall have knowledge of tax administration or tax compliance;
 - (c) shall have executive and administrative experience; and
 - (d) except for one member who has substantial knowledge and expertise in the theory and practice of ad valorem taxation as described in Subsection (2)(a), shall have substantial knowledge and experience in one or more of the following:
 - (i) the theory and practice of excise taxation;

- (ii) the theory and practice of income taxation;
 - (iii) the theory and practice of sales and use taxation; and
 - (iv) the theory and practice of corporate taxation.
- (2)
- (a) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of ad valorem taxation.
 - (b) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of accounting.
- (3) The membership of the commission shall represent composite skills in accounting, auditing, property assessment, management, law, and finance.

Amended by Chapter 370, 2014 General Session

59-1-203 Conflicts of interest -- Salaries -- Ethics.

- (1) No person appointed as a member of the commission may hold any other office under the laws of this state, the government of the United States, or any other state. Each member shall devote full time to the duties of the office and may not hold any other position of trust or profit under the Constitution nor engage in any other occupation that would create a direct conflict with the duties of a commissioner.
- (2) The salaries of the commissioners shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. Commissioners shall also be allowed expenses as provided by law.
- (3) No commissioner, executive director, or consultant shall engage in political or charitable fund raising activities. Commissioners and commission employees are governed by Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 114, 1991 General Session

59-1-204 Oath of office.

- (1) Before entering upon the duties of office, a member of the commission shall qualify by taking the constitutional oath of office.
- (2) The oath described in Subsection (1) shall be recorded and filed.

Amended by Chapter 356, 2010 General Session

59-1-205 Chairman -- Quorum -- Voting -- Sessions.

- (1) The governor shall designate one of the members of the commission as chairperson.
- (2)
- (a) Three members of the commission constitute a quorum for the transaction of business.
 - (b) A quorum of the commission must participate in any order that constitutes a final agency action on:
 - (i) a formal adjudicative proceeding over which the commission has jurisdiction;
 - (ii) an informal adjudicative proceeding over which the commission has jurisdiction; or
 - (iii) an initial hearing conducted pursuant to Section 59-1-502.5.
 - (c) If a commission vote results in a tie vote on any matter described in Subsection (2)(b), the position of the taxpayer is considered to have prevailed.
- (3) The commission shall be in session and open for the transaction of business during ordinary business hours each day.

- (4) The commission may hold sessions or conduct investigations at any place in the state to facilitate the performance of its duties.

Amended by Chapter 80, 2003 General Session

59-1-206 Appointment of staff -- Executive director -- Compensation -- Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.

- (1) The commission shall appoint the following persons who are qualified, knowledgeable, and experienced in matters relating to their respective positions, exempt under Title 67, Chapter 19, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly accountable to, the commission:
 - (a) in consultation with the governor and with the consent of the Senate, an executive director;
 - (b) an administrative secretary;
 - (c) an internal audit unit; and
 - (d) an appeals staff.
- (2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (3) Division directors shall be appointed by the executive director subject to the approval of the commission. The division directors are exempt employees under Title 67, Chapter 19, Utah State Personnel Management Act.
- (4)
 - (a) The executive director may with the approval of the commission employ additional staff necessary to perform the duties and responsibilities of the commission. These employees are subject to Title 67, Chapter 19, Utah State Personnel Management Act.
 - (b)
 - (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at one time.
 - (ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.
 - (iii) Notwithstanding Section 49-15-201, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement Systems.
- (5) The internal audit unit shall provide the following:
 - (a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;
 - (b) an examination to determine whether commission administrators have faithfully adhered to commission policies and legislative intent;
 - (c) an examination to determine whether the operations of the divisions and other units of the commission have been conducted in an efficient and effective manner;
 - (d) an examination to determine whether the programs administered by the divisions and other units of the commission have been effective in accomplishing intended objectives; and

- (e) an examination to determine whether management control and information systems are adequate and effective in assuring that commission programs are administered faithfully, efficiently, and effectively.
- (6) The appeals office shall receive and hear appeals to the commission and shall conduct the hearings in compliance with formal written rules approved by the commission. The commission has final review authority over the appeals.

Amended by Chapter 131, 2003 General Session

59-1-207 Administration plan -- Executive director's functions.

The commission shall prepare and implement a plan for the administration of the divisions and other offices of the commission which do not report directly to the commission. The plan shall, by rule, establish the duties and responsibilities to be delegated to the executive director.

Enacted by Chapter 4, 1987 General Session

59-1-208 Offices.

The main office of the commission shall be located in Salt Lake City. The commission may establish branch offices necessary for the convenience of the public and the efficient performance of its duties.

Enacted by Chapter 4, 1987 General Session

59-1-209 Official seal -- Authenticated copies of records as evidence.

The commission shall adopt an official seal, and shall file an impression and description of the seal with the Division of Archives. Copies of any records in the possession of the commission may be authenticated with the seal of the commission attested by the signature of the commission's administrative secretary, and when so authenticated shall be received in evidence to the same extent and with the same effect as the originals.

Enacted by Chapter 4, 1987 General Session

59-1-210 General powers and duties.

The powers and duties of the commission are as follows:

- (1) to sue and be sued in its own name;
- (2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;
- (3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;
- (4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;
- (5) to administer and supervise the tax laws of the state;

- (6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;
- (7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;
- (8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;
- (9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;
- (10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;
- (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;
- (12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;
- (13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;
- (14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;
- (15) to examine all records relating to the valuation of property of any person;
- (16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;
- (17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;
- (18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;
- (19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;
- (20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

- (21) to furnish to the governor from time to time such assistance and information as the governor requires;
- (22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;
- (23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;
- (24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;
- (25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;
- (26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature;
- (27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and
- (28) to distribute the money deposited into the Rural Health Care Facilities Account as required by Section 26-9-4.

Amended by Chapter 278, 2010 General Session

59-1-211 Uniform system of accounts.

- (1) The commission shall establish a uniform system of accounts and when established it shall be followed by all taxing entities within the state.
- (2) The commission may make rules directly relating to the administration of a uniform system of accounts and shall periodically publish these rules and distribute them to all taxing entities.
- (3) The commission shall certify a list of all taxing entities that do not comply with the laws and rules pertaining to uniform accounts to the county attorney of the county in which the entity is located. The county attorney shall immediately notify the official or officials charged by law with complying with them. If the official or officials fail to so comply within 60 days after receipt of the notice, the county attorney shall commence proceedings in district court in mandamus to require performance.

Amended by Chapter 3, 1988 General Session

59-1-213 Annual report on Internal Revenue Code changes.

The commission shall annually provide an electronic report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the impacts of the reliance of this title on the Internal Revenue Code, including:

- (1) any modification to the Internal Revenue Code that is likely to have a fiscal impact on state revenues:
 - (a) that became effective:
 - (i) if the commission is preparing its initial report in accordance with this section, during the previous calendar year; or

- (ii) if the commission has prepared a previous report in accordance with this section, after the most recent report prepared in accordance with this section; or
 - (b) that have been enacted and will become effective prior to the end of the calendar year that begins January 1 following the current report prepared in accordance with this section;
- (2) the fiscal impacts a modification described in Subsection (1) may have on state revenues; and
- (3) statutory or administrative options to:
 - (a) implement the effects on this title of a modification described in Subsection (1); or
 - (b) change this title to prevent this title from implementing a modification described in Subsection (1).

Amended by Chapter 135, 2016 General Session